

**BERGER & WEBB, LLP**

ATTORNEYS AT LAW

7 TIMES SQUARE, 27TH FLOOR

NEW YORK, NY 10036

(212) 319-1900

CHARLES S. WEBB III  
STEVEN A. BERGER  
THOMAS E. HONE  
KENNETH J. APPLEBAUM  
JONATHAN ROGIN  
JUDITH Z. KATZ  
ADAM H. BRODSKY

FAX  
(212) 319-2017  
(212) 319-2018

WWW.BERGERWEBB.COM

February 29, 2016

**BY ECF**

Hon. John G. Koeltl  
United States District Judge  
United States Courthouse  
500 Pearl Street, Courtroom 12B  
New York, NY 10007

RE: *Apple Mortgage Corp. v. Barenblatt, et al.*  
(S.D.N.Y. Case No. 13-cv-9233)

Dear Judge Koeltl:

We represent plaintiff Apple Mortgage Corp. ("Apple") in the referenced action, and I am writing pursuant to the Court's Order dated February 15, 2016 (ECF Doc. 70). It is Apple's position that the Court should dismiss the remainder of the case without prejudice because of lack of federal jurisdiction.

As this Court held in *National Westminster Bank, PLC v. Grant Prideco, Inc.*, 343 F. Supp. 2d 256 (S.D.N.Y. 2004), there is "a decided preference for dismissal of supplemental claims when the jurisdiction-conferring claims are disposed of prior to trial." *Id.* at 258 (citing *United Mine Workers of America v. Gibbs*, 383 U.S. 715 (1966)). Moreover, where, as here, "[t]he extensive discovery taken by the parties is readily available for use in the state courts," dismissal is further warranted. *See id.* *See also Román y Gordillo, S.C. v. The Bank of New York Mellon Corp.*, 2015 WL 5786460, \*22 (S.D.N.Y. Sept. 29, 2015) (holding that "[g]enerally, if a court dismisses before trial all of the claims over which it has original jurisdiction, the balance of these factors will weigh in favor of declining to exercise supplemental jurisdiction over any remaining state law claims.") (citations omitted). Finally, "the Second Circuit instructs that absent exceptional circumstances, where federal claims can be disposed of pursuant to Rule 12(b)(6) or summary judgment grounds, courts should abstain from exercising pendent jurisdiction." *Young v. Suffolk Cnty.*, 922 F. Supp. 2d 368, 398 (E.D.N.Y. 2013) (internal quotation marks and citations omitted).

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Based on the foregoing, Apple submits that the Court should dismiss the remainder of the case, without prejudice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jonathan Rogin', written over the printed name.

Jonathan Rogin

cc: Richard C. Schoenstein, Esq. (by e-mail)